IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No. 62 of 1995.

Date of decision: 22.12.2006.

State of H.P & anr. ….. **Appellants.**

Vs.

Nek Ram & ors. …. **Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellants : **Mr. M.S.Chandel, Advocate General with Mr. Ashok Chaudhary, Additional Advocate General.**

For the Respondents : **Mr. G.D.Verma, Sr. Advocate with Mr. B.C.Verma, Advocate.**

Surjit Singh, Judge (Oral).

Heard and gone through the record.

2. Land measuring 6 Bighas 15 Biswas, belonging to the respondents was acquired by the appellants, through a notification under Section 4 of the Land Acquisition Act, issued in the month of June, 1986. The Land Acquisition Collector, assessed the market value of the land at the rate of Rs. 1,000/- per bigha. A reference having been made to him, under Section 18 of the Land Acquisition Act, the District Judge assessed the market value of the land at the rate of Rs.16,000/- per bigha.

Whether the reporters of the local papers may be allowed to see the Judgment?

3. Appellants feeling aggrieved by the assessment of the market value at the aforesaid rate of Rs. 16,000/- per bigha, filed the present appeal, seeking reduction in the market value.

4. Another appeal was filed by the respondents, seeking further enhancement of compensation that was registered as RFA No. 67 of 1995. That appeal has already been disposed of by a Single Bench of this Court, vide judgement dated July, 23,2003. The appeal has been dismissed with the finding that the market value, as assessed by the District Judge, cannot be said to be on the lower side.

5. When the aforesaid appeal, RFA No. 67 of 1995, was heard, it was not pointed out to the Single Judge, who heard that appeal that an appeal for reduction of compensation filed by the appellants was also pending. Learned counsel for the respondents has submitted that since RFA No. 67 of 1995, has already been disposed of and no interference in the market value of the land, as assessed by the District Judge has been made, per judgement delivered in the said RFA No. 67 of 1995, there is no option but to dismiss the present appeal, upholding the market value, as assessed by the learned Single Bench of this court, in the aforesaid RFA. The argument is without merit. In the said appeal what was looked into by the learned Judge was whether the market value assessed by the District Judge was on the lower side, as alleged by the respondents-claimants. The learned Single Judge did not go into the question whether the market value assessed by the learned District Judge, was on the higher side, as alleged in the present appeal.

6. Coming to the merits of the case, the learned District Judge has placed reliance upon two sale transactions evidenced by sale deeds Ex. PW 5/A and Ex. PW 6/A. Sale deed Ex. PW 5/A is with respect to 5 Biswas area, which was sold for a consideration of Rs. 4,000/-. The sale deed was executed in the year 1987 or say about a year after the issuance of the notification. However, Gita Ram, who sold the land through this document, while in the witness box, as PW 5, testified that the agreement for sale of this land had taken place in the year 1985, i.e. to say a year before the issuance of the notification. Through the other sale deed Ex. PW 6/A, 15 Biswas area was sold for Rs. 11,000/-. The vendor of this land Krishan Dutt, appeared as PW 6 and stated that the agreement had taken place two years prior to the execution of the sale deed. The sale deed was executed in the year 1987. That means, this transaction had taken place in the year 1985. No evidence in rebuttal, was led by the appellants. Suggestions were thrown to PWs 5 and 6 that the sale consideration mentioned in the deeds were inflated. They denied the suggestions. No evidence having been led in rebuttal, there should be no hitch in concluding that the agreements for the sale of the parcels of land sold through these two deeds had taken place in the year 1985. As per these sale deeds, the average sale price of land comes to Rs. 15,000/- per bigha. It has been stated by almost all the witnesses examined by the respondents that the acquired land is situated close to the National Highway and it has better and higher potential compared to the land sold through Ex. PW 5/A and Ex. PW 6/A. The two sale deeds prove the price of the land prevailing in the

year 1985. The price is supposed to have gone up in the year 1986 when the notification was issued.

7. Under these circumstances, the market value at the rate of Rs. 16,000/-, per bigha, as assessed by the learned Sessions Judge, cannot be said to be on the higher side.

8. Consequently, the appeal is dismissed.

December 22, 2006. **(Surjit Singh),**
(Hem) **Judge.**